

**C. The Rejection of Claims 3-4 under 35 U.S.C. § 103**

The Office Action rejected claims 3-4 under 35 U.S.C. § 103(a) as being unpatentable over *Hall* in view of U.S. Patent No. 5,803,333 to *Fawcett* (hereafter “*Fawcett* ‘333”). The Office Action states that *Hall* discloses the claimed invention but not the shoulder straps or sealable flap. Thus, the Office Action cites *Fawcett* ‘333 as teaching a pouch with shoulder straps and sealable flap that can carry a bladder similar to *Hall*. The Office Action concludes it would have been obvious to one skilled in the art to carry the bladder of *Hall* in the device of *Fawcett* ‘333.

Because Claim 1 is believed patentable over *Hall*, Applicant respectfully submits that Claims 3-4 which depend on Claim 1 are also patentable over *Hall* in view of *Fawcett* ‘333 for the reasons previously stated. Therefore, Applicant respectfully requests that the rejection be withdrawn.

**D. The Rejection of Claim 5 under 35 U.S.C. § 103**

The Office Action rejected Claim 5 under 35 U.S.C. § 103(a) as being unpatentable over *Fawcett* ‘333 in view of U.S. Patent No. 5,085,349 to *Fawcett* (hereafter “*Fawcett* ‘349”) and *Hall*. The Office Action states that *Fawcett* ‘333 discloses the claimed invention but not a cover made from a chemically hardened material, a first seal at the pouch, and a tube conduit made from the same chemically hardened material. Thus, the Office Action cites *Fawcett* ‘349 as

teaching a first sealing means at the top of the pouch and cites *Hall* as teaching a cover and a tube conduit made from a material that is impermeable to chemical toxins and biological agents, such as 3TOX. The Office Action concludes it would have been obvious to one skilled in the art to provide the pouch of *Fawcett* '333 with the sealing means of *Fawcett* '349 and the tube conduit of *Hall* and to have the cover and the conduit made from a material impermeable to chemical toxins and biological agents as taught by *Hall*.

Applicant respectfully submits that none of the cited references, alone or in combination, teaches, suggests, or renders obvious amended Claim 5 because it recites a portable flexible carrier that includes "a cover with a pouch to receive the fluid container, the pouch having an open end with a sleeve...; a first seal disposed at the sleeve of the pouch to selectively seal the pouch..."

*Fawcett* '333 discloses a pack 10 that has an internal storage compartment 12, as described in col. 2, lines 47-48. A liquid holding reservoir 48 is placed within the storage compartment 12, as shown in Figs. 3 and 4. A top flap 20 is attached to the rear 16 near the open top 18, and the top flap 20 can be extended over the open top 18 to the front 14 to close the open top 18, as described in col. 2, lines 52-55, and shown in Figs. 1 and 7. *Fawcett* '333 does not teach or suggest any structure that can be considered a sleeve near the open top 18 of the pack 10. A sleeve at the open top 18 would prevent the top flap 20 from extending over the open top 18 from the rear 16 to the front 14 of the pack 10. Furthermore, *Fawcett* '333 does not teach or suggest putting a seal at a sleeve because there is no sleeve in the pack 10 of *Fawcett* '333.

Thus, *Fawcett* '333 does not teach, suggest, or render obvious an open end with a sleeve or a seal at the sleeve.

Also, *Hall* does not teach, suggest, or render obvious a cover with a pouch having an open end with a sleeve or a seal at the sleeve to selectively seal the pouch. *Hall* discloses an outer protective bladder (formed from layers 510a and 510b) encasing a bladder (formed from layers 520a and 520b), as described in paragraph [0023] and shown in Fig. 5. The outer protective bladder has an opening, as shown in Fig. 4. The inner bladder has a corresponding opening that coincides with the opening of the outer bladder, as shown in Fig. 4. A spout 120 is placed around the opening of the outer bladder and the corresponding opening of the inner bladder. The spout 120 has an outer section 121 that is placed on the outer bladder and an inner section 124 that is placed within the inner bladder, as shown in Fig. 4. Then, by screwing together the outer and inner sections 121 and 124 of the spout 120, the spout 120 clamps together the inner and outer bladders between the outer and inner sections 121 and 124, as described in paragraph [0027] and shown in Figs. 4, 7, and 9. There is no structure equivalent to or analogous to a sleeve near either of the openings of the inner or outer bladders. As discussed above, one skilled in the art would avoid providing a sleeve at either opening because it would require extra material, additional manufacturing steps, and impede the coupling of the outer and inner sections 121 and 124. Therefore, *Hall* does not teach, suggest, or render obvious a sleeve near an open end or putting a sealing means on a sleeve because there is no sleeve.

Finally, *Fawcett '349* does not teach, suggest, or render obvious a pouch having an open end with a sleeve or a seal at the sleeve. The pack 16 of *Fawcett '349* accepts a water bag 30 within its interior 22, as shown in Fig. 3. The pack 16 is open at the top, and the top includes a fastener means 25, as described in col. 4, lines 52-53, and as shown in Fig. 3. There is no structure at the top of the pack 16 that can be considered a sleeve. As shown in Fig. 3, the fastener means 25 is placed close to the top of the water bag 30 to secure the water bag 30 to the pack 16. A sleeve between the water bag 30 and the fastener means 25 would prevent the fastener means 25 from restraining the water bag 30 to the pack 16. Thus, *Fawcett '349* does not teach, suggest, or render obvious the sleeve or a seal on the sleeve as recited in amended Claim 5.

For the reasons explained above, Applicant respectfully requests reconsideration and withdrawal of the rejection of Claim 5.

**Conclusion**

Based on the foregoing, Applicant respectfully requests that the above amendments be entered and favorable reconsideration and allowance of claims 1-5 is solicited.

Date: March 3, 2009

Respectfully submitted,

/Michael Eisenberg/ Reg. No. 50,448

\_\_\_\_\_  
Michael D. Eisenberg  
Attorney for Applicant  
Reg. No. 50,448

Law Office of Michael D. Eisenberg  
3263 Caminito Eastbluff, Suite 198  
La Jolla, California  
Telephone No.: (858) 812-0820  
Facsimile No.: (858) 761-0240